

SEA, a public or private residential facility that is operated primarily for the care of children and youth who—

- (1) Have been adjudicated to be delinquent or in need of supervision; and
- (2) Have had an average length of stay in the institution of at least 30 days.

*Institution for neglected children and youth* means, as determined by the SEA, a public or private residential facility, other than a foster home, that is operated primarily for the care of children and youth who—

- (1) Have been committed to the institution or voluntarily placed in the institution under applicable State law due to abandonment, neglect, or death of their parents or guardians; and
- (2) Have had an average length of stay in the institution of at least 30 days.

*Regular program of instruction* means an educational program (not beyond grade 12) in an institution or a community day program for neglected or delinquent children that consists of classroom instruction in basic school subjects such as reading, mathematics, and vocationally oriented subjects, and that is supported by non-Federal funds. Neither the manufacture of goods within the institution nor activities related to institutional maintenance are considered classroom instruction.

(c) The following definitions apply to the local agency program authorized in part D, subpart 2 of Title I of the ESEA:

*Immigrant children and youth and limited English proficiency* have the same meanings as the term “immigrant children” is defined in section 3301 of the ESEA and the term “limited English proficient” is defined in section 9101 of the ESEA, except that the terms “individual” and “children and youth” used in those definitions mean “children and youth” as defined in this section.

*Locally operated correctional facility* means a facility in which persons are confined as a result of a conviction for a criminal offense, including persons under 21 years of age. The term also includes a local public or private institution and community day program or school not operated by the State that serves delinquent children and youth.

*Migrant youth* means the same as “migratory child” as that term is defined in § 200.81(d).

(Authority: 20 U.S.C. 6432, 6454, 6472, 7801)

#### § 200.91 SEA counts of eligible children.

To receive an allocation under part D, subpart 1 of Title I of the ESEA, an SEA must provide the Secretary with a count of children and youth under the age of 21 enrolled in a regular program of instruction operated or supported by State agencies in institutions or community day programs for neglected or delinquent children and youth and adult correctional institutions as specified in paragraphs (a) and (b) of this section.

(a) *Enrollment.* (1) To be counted, a child or youth must be enrolled in a regular program of instruction for at least—

- (i) 20 hours per week if in an institution or community day program for neglected or delinquent children; or
- (ii) 15 hours per week if in an adult correctional institution.

(2) The State agency must specify the date on which the enrollment of neglected or delinquent children is determined under paragraph (a)(1) of this section, except that the date specified must be—

- (i) Consistent for all institutions or community day programs operated by the State agency; and
- (ii) Represent a school day in the calendar year preceding the year in which funds become available.

(b) *Adjustment of enrollment.* The SEA must adjust the enrollment for each institution or community day program served by a State agency by—

- (1) Multiplying the number determined in paragraph (a) of this section by the number of days per year the regular program of instruction operates; and
- (2) Dividing the result of paragraph (b)(1) of this section by 180.

(c) *Date of submission.* The SEA must annually submit the data in paragraph (b) of this section no later than January 31.

(Approved by the Office of Management and Budget under control number 1810-0060)

(Authority: 20 U.S.C. 6432)